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December 27, 2016

242334

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
December 27, 2016
Part of
Public Record

Re: **Docket No. AB-55 (Sub-No. 643X)**
CSX Transportation, Inc. -- Abandonment Exemption --
In La Porte, Porter and Starke Counties, IN

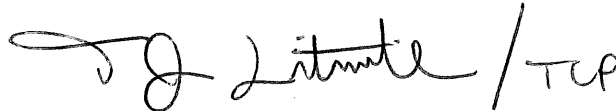
Docket No. FD 36076
Chesapeake and Indiana Railroad Company --
Petition for Declaratory Relief

Dear Ms. Brown:

Attached for filing in the above-captioned proceedings is the **Reply of Chicago & North Judson Railway Company to Petition to Reopen and Petition for Declaratory Relief**, dated December 27, 2016.

Should any questions arise regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Thomas J. Litwiler
Attorney for Chicago & North Judson
Railway Company

TJL:tl

Attachment

cc: Parties on Certificate of Service

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (SUB-NO. 643X)

CSX TRANSPORTATION, INC.
-- ABANDONMENT EXEMPTION --
IN LA PORTE, PORTER AND STARKE COUNTIES, IN

DOCKET NO. FD 36076

CHESAPEAKE AND INDIANA RAILROAD COMPANY --
PETITION FOR DECLARATORY RELIEF

**REPLY OF CHICAGO & NORTH JUDSON RAILWAY COMPANY
TO PETITION TO REOPEN AND PETITION FOR DECLARATORY RELIEF**

Janet H. Gilbert
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
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(312) 252-1500

**ATTORNEYS FOR CHICAGO & NORTH
JUDSON RAILWAY COMPANY**

Dated: December 27, 2016

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (SUB-NO. 643X)

CSX TRANSPORTATION, INC.
-- ABANDONMENT EXEMPTION --
IN LA PORTE, PORTER AND STARKE COUNTIES, IN

DOCKET NO. FD 36076

CHESAPEAKE AND INDIANA RAILROAD COMPANY --
PETITION FOR DECLARATORY RELIEF

**REPLY OF CHICAGO & NORTH JUDSON RAILWAY COMPANY
TO PETITION TO REOPEN AND PETITION FOR DECLARATORY RELIEF**

Chicago & North Judson Railway Company ("CNJR") hereby submits this reply to the petition to reopen and for declaratory relief submitted in these proceedings on November 14, 2016 by Chesapeake and Indiana Railroad Company, Inc. ("CKIN"). CNJR has been selected by the Town of North Judson, Indiana (the "Town") to lease and operate the Town-owned rail line extending between Wellsboro and La Crosse, Indiana and from Malden through La Crosse to North Judson, Indiana (the "Line"). CKIN is the incumbent operator of the Line, and its petition is a procedurally and substantively defective effort to preempt its removal from the Line pursuant to an adverse discontinuance application that the Town will shortly file. CNJR is aware that both the Town and Hoosier Valley Railroad Museum ("HVRM"), which operates rail passenger excursion trains on the Line, will be responding to the CKIN petition. CNJR is submitting this additional reply so that the Board is aware of CNJR's position and knows that the reasonable accommodation of common carrier freight and passenger excursion operations on the Line is not the conundrum that CKIN would create.

CNJR is a newly-formed, non-carrier affiliate of Lake State Railway Company ("LSRC"), an established and successful Class III rail carrier that operates approximately 300 miles of rail line in the lower peninsula of Michigan. *See, e.g., Lake State Railway Company -- Intra-Corporate Family Merger Exemption -- Saginaw Bay Southern Railway Company*, Docket No. FD 35561 (STB served December 2, 2011). LSRC has extensive experience handling grain and agricultural commodities in cooperation with Class I interchange partners, which also is the setting for rail service on the Line.¹ LSRC/CNJR was the successful respondent to a request for proposals issued by the Town in June, 2016 for the lease and operation of the Line. The Town and CNJR will shortly execute an Agreement for Lease of Rail Line in connection with the transaction, and CNJR will file a notice of exemption pursuant to 49 C.F.R. § 1150.31, *et seq.* for its lease and operation of the Line.²

CNJR initially notes that it was not served with CKIN's petition, even though CKIN seeks relief directly with respect to CNJR. CKIN Petition at 3, 22-23, 24 (requesting Board to reject any LSRC/CNJR notice of exemption).³ CKIN's petition could be denied for that reason alone. CNJR intends to proceed with filing its notice of exemption, and will address any arguments that CKIN presents in a (presumably properly-served) petition to stay, reject or revoke at that time. CNJR notes that it does not intend to commence operations on the Line until the Board takes action on the Town's forthcoming adverse discontinuance application against CKIN

¹ Current freight service on the Line consists almost exclusively of traffic for grain elevators of Co-Alliance, LLP ("Co-Alliance") located at Union Mills and Malden, Indiana.

² A notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) permitting the common control of LSRC and CNJR will be submitted at the same time.

³ Given this, it would not appear necessary for CNJR to seek leave to intervene in this proceeding pursuant to 49 C.F.R. § 1112.4. CNJR hereby seeks such leave to the extent it may be required.

in Docket No. AB-1232, *Town of North Judson, Ind. -- Adverse Discontinuance of Service -- In La Porte, Porter and Starke Counties, Ind.*

CNJR was not the only entity notably omitted from the service list for CKIN's petition. Even though CKIN seeks to unwind the 2004 offer of financial assistance ("OFA") transaction in which the Town acquired the Line from CSX Transportation, Inc. ("CSXT"), CKIN did not serve its petition on CSXT. That omission is even more striking given that CKIN's arguments frequently rely on hypothesizing about how *CSXT* might have acted in 2004. CKIN Petition at 8, 10.

Of course, CKIN doesn't really want to unwind the 2004 OFA transaction; even if that was somehow appropriate more than a decade later,⁴ such action would presumably restart the OFA process and allow the owner -- necessarily either CSXT or the Town -- to choose among potentially multiple offerors. 49 C.F.R. § 1152.27(l). Instead, CKIN seeks to compel a transfer of the Line in 2017 to *itself*. As CKIN essentially admits, CKIN Petition at 21, that requested relief amounts to a feeder line sale, conveniently devoid of any satisfaction of the governing criteria of 49 U.S.C. § 10907 and 49 C.F.R. § 1151. CKIN has provided no rational basis for the invented relief it seeks.

Equally vacant is CKIN's insistence that so-called "*State of Maine*" principles are implicated here. CKIN Petition at 9, 13, 15-17 (citing *Maine Dept. of Transp. -- Acq. & Oper. Exempt. -- Maine Cent. R. Co.*, 8 I.C.C.2d 835 (1991)). Where the owner of a rail line "fails" the *State of Maine* test, the result is that the owner is deemed a rail carrier on the line. Here, the Town is *already* a rail carrier on the Line, having acquired the Line pursuant to the OFA

⁴ See *Consolidated Rail Corporation -- Abandonment Exemption -- In Erie County, NY*, Docket No. AB-167 (Sub-No. 1164X) (STB served October 7, 1998), *aff'd sub nom. Buffalo Crushed Stone, Inc. v. STB*, 194 F.3d 125 (D.C. Cir. 1999).

procedures of 49 U.S.C. § 10904. *State of Maine* adds nothing to that analysis. And CKIN's apparent notion that making HVRM a *third* carrier on the Line would somehow improve CKIN's position, CKIN Petition at 17, is nonsensical.

The procedural and substantive deficiencies in CKIN's petition are thus manifest. Perhaps most puzzling, however, is CKIN's pervasive objection to the idea that an initiating motivation for public acquisition of the Line upon abandonment was the accommodation of excursion passenger trains. Where that motivation allowed the preservation of a rail line and continuation of freight service that would otherwise have been lost, public policy should encourage rather than prohibit such transactions.

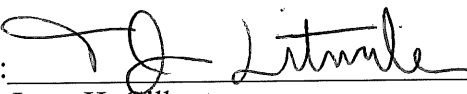
Ultimately, CKIN's entire case before the Board depends on the notion that the desired levels of freight and excursion passenger service on the Line are somehow incompatible. As an experienced and successful rail freight operator, LSRC/CNJR believes that CKIN is wrong. CKIN itself admits that its own operations on the Line "continued on a satisfactory basis until 2014," CKIN Petition at 4, even as Co-Alliance's freight traffic on the Line was increasing from 506 cars in 2005 to 3282 cars in 2014. CKIN Petition, Exhibit 2 at 2. In close consultation with the Town and Co-Alliance, CNJR has developed and executed with HVRM an "Operating Protocols Agreement," attached hereto as Exhibit 1. That agreement includes detailed Joint Freight and Tourist Passenger Operating Protocols for handling conflicting train movements at various specific locations on the Line, and assures the fluidity of freight train movements to and from Co-Alliance facilities. The Operating Protocols Agreement is also included as an exhibit to a new "Agreement for Tourist Passenger Transportation" between the Town and HVRM that provides the underlying access for HVRM excursion trains on the Line.

Nothing in these arrangements "elevates the needs and desires of [passenger excursion interests] over the needs for freight service." CKIN Petition at 18. Instead, CNJR is confident that the arrangements ensure effective and competitive freight service on the Line while reasonably accommodating HVRM's interest in operating excursion passenger trains. CNJR believes this view is shared by the other parties it has engaged in the consultative process, including HVRM and Co-Alliance.

CNJR does not know the reason or reasons for CKIN's inability or unwillingness to itself develop these kinds of cooperative and mutually beneficial arrangements. But it seems inappropriate for CKIN to seek to leverage its own unproductive relationship with HVRM into an impediment against those who can and will do better.

WHEREFORE, CNJR respectfully requests that CKIN's petition be denied in its entirety.

Respectfully submitted,

By:  /TCP
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Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR CHICAGO & NORTH
JUDSON RAILWAY COMPANY**

Dated: December 27, 2016

EXHIBIT 1

OPERATING PROTOCOLS AGREEMENT

OPERATING PROTOCOLS AGREEMENT

This Operating Protocols Agreement ("Protocol Agreement") is entered into as of December 22, 2016 between Chicago & North Judson Railway Company ("CNJR") and the Hoosier Valley Railroad Museum ("HVRM")

RECITALS

A. The Town of North Judson, IN ("Town") owns a rail line that extends between Milepost CF 0.23 at or near LaCrosse and Milepost CF 15.23 at or near Wellsboro, and between Milepost CI 212.55 at or near North Judson and Milepost CI 230.92 at or near Malden, a total distance of approximately 33.37 miles, in LaPorte, Porter, and Starke Counties, Indiana (the "Rail Line");

B. The Town and CNJR have entered into an "Agreement for Lease of Rail Line" ("Lease Agreement") whereby CNJR has leased the Rail Line for the purpose of providing common carrier rail freight service on the Rail Line;

C. The Town and CNJR have agreed that, subject to the terms of this Protocol Agreement, HVRM will be permitted to provide tourist passenger service over the Rail Line in substantially the same manner as in the recent past;

NOW, THEREFORE, in consideration of the mutual promises contained in this Protocol Agreement, and intending to be bound by the terms and conditions contained herein, CNJR and HVRM agree as follows:

1. The Effective Date of this Protocol Agreement shall be the same as the Effective Date of the Lease Agreement between Town and CNJR and shall run concurrently (including any extensions thereof) with the same ("Effective Date"). In the event the Lease Agreement is terminated, this Protocol Agreement shall likewise be deemed terminated on the same date.

2. In the event HVRM fails to follow the terms of this Protocol Agreement, including the protocols set forth in Exhibit 1, and the parties cannot agree upon mutually satisfactory terms to correct the breach for future HVRM operations, CNJR shall, upon prior written notice to HVRM and Town, have the right to suspend this Agreement until such breach is resolved to the satisfaction of both parties. For the purposes of this Protocol Agreement, HVRM shall include HVRM, its employees, agents, contractors, invitees, volunteers, or any third parties providing service to or permitted to operate HVRM equipment. In the event HVRM fails to maintain insurance as required hereunder or fails to adhere to safety requirements or dispatching instructions for operations on the Rail Line, CNJR shall have the right to immediately suspend HVTM operations on the Rail Line until CNJR is satisfied HVRM is in compliance therewith.

3. The parties agree that protocols governing the joint operation of tourist passenger and freight trains are contained in the "Joint Freight and Tourist Passenger Service Operating Protocols," attached hereto as Exhibit 1 and made a part hereof. The parties further agree that, on or before February 15 of each year, HVRM shall provide CNJR and Town a schedule of its regularly planned tourist passenger trains for that year ("Annual Plan") for the consent of CNJR and the Town, which consent shall not unreasonably be withheld. HVRM shall also provide CNJR and Town not less than 30 days prior written notice of any HVRM request to provide additional or adjusted tourist passenger service not contained in the Annual Plans for the consent of CNJR and Town, including an explanation of how such

additions or changes shall not interfere with freight service. CNJR shall have the right to reject any request by HVRM for tourist passenger service operations that: (a) pose a safety risk to the general public or to CNJR's operations, (b) permit the operation of locomotives or other track equipment by individuals not qualified or certified by federal regulation to do so or not otherwise specifically permitted in writing by CNJR on a case-by-case basis or (c) may result in a violations by CNJR of FRA or other federal regulations.

4. HVRM shall provide all tourist passenger service with its own equipment and crews and shall not provide any tourist passenger service on track designated by CNJR as excepted track.

5. Except as otherwise stated herein, CNJR shall maintain the Rail Line over which HVRM operates at Federal Railroad Administration ("FRA") Class I standards (except for those segments designated as excepted track as of the Effective Date of CNJR's agreement with Town until such track is upgraded to FRA Class I). CNJR shall also be responsible for dispatching of all activity on the Rail Line. Notwithstanding CNJR's maintenance and dispatching obligations, HVRM shall not bring any claim, suit, or other action against CNJR based on the failure of CNJR to maintain the Rail Line, the condition of the Rail Line or dispatching of the Rail Line, it being understood between the parties that any negligence of CNJR involving maintenance, condition or dispatching of the Rail Line shall be deemed the negligence of HVRM as between the two parties and as to third parties. HVRM shall be solely responsible for maintenance of all rail line in North Judson owned and used exclusively by HVRM as depicted on Exhibit 2, attached hereto and made a part hereof, which shall not be deemed part of the Rail Line as defined herein.

6. HVRM shall comply with all federal, state or local safety or other rules, regulations, ordinances, or statutes applicable to their operations, including, but not limited to, applicable rules and regulations of the FRA, the Occupational Safety and Health Administration ("OSHA"), the Americans with Disabilities Act and policies and procedures of the Association of American railroads ("AAR") (collectively "Laws") while operating over the Rail Line. Further, HVRM shall operate and conduct its tourist passenger trains and related services in a safe manner consistent with reasonably and customary standards for operation of passenger/excursion trains. Failure by HVRM to comply with this Section 6 shall be grounds for suspension of HVRM operations over the Rail Line.

7. HVRM shall provide CNJR, prior to the Effective Date of the Lease Agreement with the Town, copies of all current FRA waivers in effect and shall not apply for any future waivers without the written consent of CNJR, which shall not be unreasonably withheld. HVRM shall give CNJR at least 30 days prior notice of any waivers it proposes to submit to the FRA.

8. HVRM shall not operate its tourist passenger trains in excess of fifteen (15) miles per hour on FRA Class I track. In the event any of the Rail Line is improved to meet FRA Class II standards, the parties will agree on appropriate increases to such speed limits.

9. HVRM shall not permit alcoholic beverages to be brought onto its tourist passenger trains, served or imbibed thereon without the specific written permission of CNJR and assurances that HVRM has complied with all applicable Laws related thereto (including Dram Shop laws) and that any insurance carrier covering HVRM passenger service have been notified and approved of the same.

10. HVRM shall indemnify, defend, hold harmless and release, CNJR, its parent or affiliate companies, and their respective officers, directors, agents and employees, and owners or lessees of any locomotives or railcars used in freight service ("Indemnitees"), from and against any and all claims (including environmental claims, remediation or other clean-up costs or investigation or governmental oversight costs), actions, demands, suits, fines, penalties, costs or expenses (including attorneys' fees and

expenses), losses, damages, liens, demands, or judgments (collectively "Claims") of any type or matter related in any way to tourist passenger operations, regardless of whether such Claims are attributable, in whole or in part, to the negligent acts or omissions or strict liability, in contract, tort or equity, of Indemnitees, excepting only those Claims related to the collision of a freight train with a tourist passenger train and then only to the extent such Claim is the result of the sole negligent act or omission of Indemnitees. The terms of this Section 10 apply to Claims for injury to or death of persons whomsoever (including employees of either party, passengers or other third parties) or damage to property whatsoever (including property of the parties or any third party) related in any way to the provision of tourist passenger service by or other operations of HVRM.

11. HVRM shall provide, or arrange for the provision of, comprehensive general liability insurance coverage with carriers acceptable to CNJR of at least \$10 million per occurrence and \$20 million in the aggregate, with a self-insured retention of no greater than \$5,000, and containing specific provisions in the Certificate of Insurance naming CNJR as an additional insured, specifying that the insurance carrier has read this Protocol Agreement and the coverage provided is sufficient to insure all HVRM liabilities hereunder, that there are no exclusions for doing business at or near railroads, that the policy is primary and non-contributory, include a waiver of subrogation in favor of CNJR and requires the carrier to notify CNJR at least 30 days in advance of any cancellation or non-renewal. In the event HVRM fails to maintain such insurance in full force and effect, CNJR shall have the right to immediately suspend operations until such insurance is obtained.

12. Any movement or interchange by CNJR of HVRM equipment or other equipment transported to and from HVRM shall be done pursuant to tariff or other rate agreements entered into by the parties. Storage of equipment, whether equipment owned and operated by HVRM or stored by HVRM for others, shall be stored on the track identified on Exhibit 2 and shall not be done on any part of the Rail Line as defined herein.

13. In the event of a derailment or other incident on the Rail Line involving HVRM Equipment, and not involving the Equipment of CNJR, HVRM shall immediately notify CNJR and respond to such incident in a timely manner so as to not interfere with freight operations. Any repairs made or operations conducted on the Rail Line to clean up damage related to the derailment or other incident shall be done in accordance with CNJR standards. In the event HVRM is not able to timely respond, CNJR shall have the right to provide such clean up services on behalf of HVRM. Any costs or expenses related thereto, including costs to repair or restore the Rail Line, shall be the responsibility of HVRM. HVRM shall reimburse CNJR within 30 days of receipt of invoice therefor. If a derailment or other incident involves the Equipment of both parties, CNJR shall respond and shall invoice HVRM for cost and expenses for which it is responsible under the terms of this Protocol Agreement. Where derailments or other incidents on the Rail Line involve the Equipment of both HVRM and CNJR, CNJR shall perform repairs or other clean up and shall seek reimbursement from HVRM for the costs thereof, unless such were caused solely by CNJR.

14. Nothing contained herein shall preclude CNJR and HVRM from entering into a written agreement altering the arrangement contained herein as to maintenance and operating responsibilities on such line segment and containing appropriate protocols for operation of freight rail service thereover.

15. Any changes or modifications to this Operating Protocols Agreement, or Exhibit 1 thereto, shall be in writing and signed by both parties. This Operating Protocols Agreement is made and intended for the benefit of the parties hereto and for no other parties.

16. This Operating Protocols Agreement shall be construed in accordance with the laws of the state of Indiana, except to the extent governed by federal law.

IN WITNESS WHEREOF, the parties hereto have caused this Operating Protocols Agreement to be duly executed as of the day and year first hereinabove written.

**HOOSIER VALLEY RAILROAD
MUSEUM**

By: Mark W. Knebel
Printed: MARK W. KNEBEL
Title: SECRETARY

**CHICAGO & NORTH JUDSON
RAILWAY COMPANY**

By: _____
Printed: _____
Title: _____

EXHIBIT ONE

JOINT FREIGHT AND TOURIST PASSENGER OPERATING PROTOCOLS

Chicago & North Judson Railway (CNJR) and Hoosier Valley Railroad Museum (HVRM)

CNJR and HVRM co-operate on trackage radiating three directions from LaCrosse, IN. The primary scheduled operations for HVRM and the normal freight operations for CNJR do not utilize the same route except for one leg of the LaCrosse wye track.

Delays attributable to potential conflicts at LaCrosse are very minimal and immaterial to freight operations. Occasionally, HVRM will operate trains for special events on track primarily utilized by CNJR, estimated to be 5 times or less per year. In the event that freight operations must take place on those days, this document is to be followed as a standard operating practice for scheduling meets. Generally, the CNJR trains will wait for the HVRM at specific side tracks for a meet, where the CNJR will pass. The short length of the railroad allows for minimal delays to freight traffic, so long as the HVRM and CNJR cooperate and communicate on days with joint operations. This document may not cover all potential future HVRM train movements. In the event that HVRM adds other trips, CNJR and HVRM shall mutually set potential meet points for conflicting movements.

LaCrosse

Normal Operations

Normal operating practice is for the HVRM train to pull into the wye, uncouple the locomotive, and utilize the wye to run around the passenger train. The only opportunity to foul the route of movement for a freight train is while utilizing the northwest leg of the wye. The estimated time HVRM would occupy this portion of the freight route would be 15 minutes.

Potential Conflict

The potential conflict for movement is that the HVRM locomotive may foul the freight route while utilizing the wye track, or that a grain train may foul wye during the run around move. The maximum potential delay to the HVRM train is 15-20 minutes to wait for the grain train to pass. The maximum potential delay to the CNJR train is 15-20 minutes to wait for the HVRM locomotive to wye.

Conflict Resolution Standard Operating Practice

In the event that an HVRM train and CNJR train require use of the wye track at the same time, priority will be granted based on which train is in position to occupy the wye track first. The wye track is to be operated under Yard Limits, so both trains will be in contact prior to operating through the track. If the grain train is to wait for the HVRM, the train will hold out at the US 421 crossing if operating from Malden, or will hold out at the private crossing on the north side of the wye if it is a train operating from Union Mills/Thomaston. If HVRM arrives at LaCrosse and a CNJR train is already occupying the wye, then HVRM will hold out at the LaCrosse Library until the CNJR train passes. In any circumstance that CNJR is operating on a day with a scheduled HVRM LaCrosse trip, the local operating representative from CNJR must be in contact with HVRM prior to operating a potential conflicting move through LaCrosse.

Special Trains

Hanna

Normal operating practice is for the HVRM train to operate short round trip excursions from Hanna several times during the day, historically 5 mile round trips to Thomaston.

Potential Conflict

The potential conflict for Hanna Fest trips is either an NS train destined for Union Mills, which would require a movement through Hanna to or from Thomaston, or a CSX train for Malden, which would require a movement through Hanna to or from Union Mills.

Conflict Resolution Standard Operating Practice

In the event that a CNJR train needs to pass through Hanna on the day HVRM is running trips for Hanna Fest, then the CNJR train shall be scheduled to meet the next scheduled HVRM train at Thomaston siding. If HVRM is operating north from Hanna, then the meet shall be coordinated for the south end of "Track 8" in Union Mills. CNJR and HVRM will develop a schedule when multiple daily HVRM trips are scheduled, that would allow a buffer period mid-day of 1 hour to coordinate a non-occupied passenger train meet for added flexibility.

Malden

HVRM intends to schedule limited trips on the line to Malden.

Potential Conflict

The potential conflict for Malden trains would be from MP 222.6 to MP 230. The estimated transit time for the portion would be 45 minutes.

Conflict Resolution Standard Operating Practice

If an HVRM train is scheduled to occupy this segment of track, CNJR will hold out in La Crosse for the train to return. If the HVRM train has not yet departed LaCrosse, then the CNJR train will operate on a joint track authority, with the HVRM train following the CNJR train to Malden. If a CNJR train is prepared to depart Malden, then the CNJR train would operate on joint track authority, following the

HVRM train back to LaCrosse. In the event that CNJR must operate to Malden on a day the HVRM is scheduled to run to Malden, the local CNJR transportation manager will be in contact with HVRM to confirm a mutually agreeable plan for meeting trains.

General Guidelines

Meeting Points

CNJR will work in good faith with HVRM to negotiate and establish mutually agreeable freight/passenger meet points; however in the event CNJR and HVRM are unable to agree, the meet point will be as set by CNJR.

Movements Involving Open Air Railcars

When a meet shall occur between CNJR and HVRM, HVRM shall have a coach attendant in each open railcar to ensure all passengers keep their heads and arms, as well as any personal possessions, inside the railcar while passing another train. Also, no passengers shall be permitted off the train when another train passes.

Schedule Windows

When scheduling multiple trips on a single day that could interfere with freight, HVRM shall schedule an extra 30-60 minutes of "window" time between train trip runs to allow for a freight train to pass.

Shifts in Traffic Patterns

CNJR and HVRM will revisit protocols if significant shifts in traffic patterns by either arise.

EXHIBIT 2

[Map depicting location of rail lines exclusive to HVRM and outside the maintenance and dispatching scope of this Agreement]

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of December, 2016, a copy of the foregoing
**Reply of Chicago & North Judson Railway Company to Petition to Reopen and Petition for
Declaratory Order** was served by electronic mail and first class mail, postage prepaid, upon:

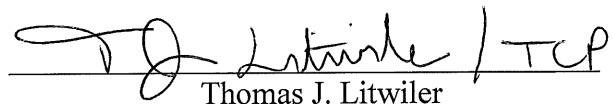
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